

Changes in the HUD Definition of “Homeless”

HUD has issued a draft regulation to implement changes to the definition of homelessness contained in the Homeless Emergency Assistance and Rapid Transition to Housing Act. The definition affects who is eligible for various HUD-funded homeless assistance programs. The new definition includes four broad categories of homelessness:

- People who are living in a place not meant for human habitation, in emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided. The only significant change from existing practice is that people will be considered homeless if they are exiting an institution where they resided for up to 90 days (it was previously 30 days), and were homeless immediately prior to entering that institution.
- People who are losing their primary nighttime residence, which may include a motel or hotel or a doubled up situation, within 14 days and lack resources or support networks to remain in housing. HUD had previously allowed people who were being displaced within 7 days to be considered homeless. The proposed regulation also describes specific documentation requirements for this category.
- Families with children or unaccompanied youth who are unstably housed and likely to continue in that state. This is a new category of homelessness, and it applies to families with children or unaccompanied youth who have not had a lease or ownership interest in a housing unit in the last 91 or more days, have had three or more moves in the last 90 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment.
- People who are fleeing or attempting to flee domestic violence, have no other residence, and lack the resources or support networks to obtain other permanent housing. This category is similar to the current practice regarding people who are fleeing domestic violence.

This document includes a table summarizing the changes to the definition of homelessness and provides analysis of its effects and the decisions that communities and individual programs will have to make.

Summary of Changes

The following table summarizes the proposed definition of homelessness, compares it to the existing definition, and summarizes the documentation requirements. Significant changes from the existing definition are underlined.

Table

| 1. Core Definition | | |
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| Traditional HUD Definition | New Definition | New Documentation Requirements |
| <p>An individual or family who lacks a fixed, regular, and adequate nighttime residence, which includes a primary nighttime residence of:</p> <ul style="list-style-type: none"> place not designed for or ordinarily used as a regular sleeping accommodation (including car, park, abandoned building, bus/train station, airport, or camping ground) publicly or privately operated shelter or transitional housing, including a hotel or motel paid for by government or charitable organizations; <p>In addition, a person is considered homeless if he or she is being discharged from an institution where he or she has been a resident for <u>30 days</u> or less and the person resided in a shelter or place not meant for human habitation immediately prior to entering that institution.</p> | <p>An individual or family who lacks a fixed, regular, and adequate nighttime residence, which includes a primary nighttime residence of:</p> <ul style="list-style-type: none"> place not designed for or ordinarily used as a regular sleeping accommodation (including car, park, abandoned building, bus/train station, airport, or camping ground) publicly or privately operated shelter or transitional housing, including a hotel or motel paid for by government or charitable organizations; <p>In addition, a person is considered homeless if he or she is being discharged from an institution where he or she has been a resident for <u>90 days</u> or less and the person resided in a shelter or place not meant for human habitation immediately prior to entering that institution.</p> | <p>Acceptable evidence documenting homelessness in a place not ordinarily used as sleeping accommodation or shelter includes:</p> <ul style="list-style-type: none"> certification from individual or head of household seeking assistance; or written documentation from an outreach worker as to where the individual or family was living before <p>In addition to those requirements, documenting that a person is in an institution for 90 days or less includes written referral from a social worker, case manager, or other appropriate official that explains the entry and exit dates.</p> |

2. Imminently Losing Primary Nighttime Residence

| Traditional HUD Definition | New Definition | New Documentation Requirements |
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| Individual or family is being evicted within 7 days from a private dwelling and no subsequent residence has been identified. | Individual or family is being evicted within 14 days from a private dwelling and no subsequent residence has been identified. | <ol style="list-style-type: none">1. Certification by the individual or head of household that no subsequent residence has been identified.2. Self certification or other written documentation that the individual or head of household lacks the financial resources and support networks to obtain other housing.3. At least one of the following:<ul style="list-style-type: none">• a court order resulting from an eviction notice;• for individuals in hotels or motels that they are paying for, evidence that the individual or family lacks the necessary financial resources to stay beyond the 14 day notice period; or• an oral statement by the individual or head of household stating that the owner or renter of the residence will not allow them to stay for more than 14 days. The individual or head of household must verify in writing as to the veracity of the oral statement, and the intake worker must verify the statement either through contact with the owner or renter or documentation of due diligence in attempting to obtain such a statement. |

3. Persistent Housing Instability

| Traditional HUD Definition | New Definition | New Documentation Requirements |
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| <p>People who experience persistent housing instability are not currently considered homeless.</p> | <p><u>Individuals with all of these characteristics:</u></p> <ol style="list-style-type: none"> <u>1. unaccompanied youth or family with children;</u> <u>2. defined as homeless under other federal statutes (for example the definition used by the Department of Education) who do not otherwise qualify as homeless under HUD's definition;</u> <u>3. has not been on a lease or occupancy agreement and has not had an ownership interest in housing in the 91 days prior to applying for assistance;</u> <u>4. has moved three or more times in the 90 days immediately prior to applying for assistance;</u> <u>5. Has one or more of the following</u> <ul style="list-style-type: none"> <u>• chronic disabilities,</u> <u>• chronic physical or mental health conditions</u> <u>• substance addiction</u> <u>• histories of domestic violence or childhood abuse</u> <u>• child with a disability</u> <u>• two or more barriers to employment, which include</u> <ul style="list-style-type: none"> <u>- lack of a high school degree or GED</u> <u>- illiteracy</u> <u>- low English proficiency</u> <u>- history of incarceration</u> <u>- history of unstable employment</u> | <ol style="list-style-type: none"> 1. Certification by the individual or head of household, written observation by an outreach worker or referral by a provider stating that the individual has not had a lease, occupancy agreement or ownership interest in housing in the last 91 days. 2. To document that the individual or family has moved three times in the past 90 days, a certification from the individual and supporting documentation, including records or statements from each owner or renter of housing, shelter or housing provider, or social worker, case worker, or appropriate official of an institution where the individual or family resided. Where these statements are unobtainable, the intake worker should include a written record of his or her due diligence in attempting to obtain them. 3. Evidence of a disability or other barriers includes: <ul style="list-style-type: none"> • written diagnosis from a licensed professional; or • observation of a the intake worker, which must be confirmed within 45 days by an appropriate medical professional, employment records, corrections records, or literacy, English proficiency, or IQ tests. |

4. Fleeing Domestic Violence

| Traditional HUD Definition | New Definition | New Documentation Requirements |
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| Is fleeing a domestic violence housing situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing. | Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence, and the person has no other residence and lacks the resources or support networks to obtain other permanent housing. | Acceptable Evidence for Individuals Fleeing Domestic Violence: <ul style="list-style-type: none">• oral statement by the individual or head of household seeking assistance;• written observation by intake worker; or• written referral by a housing or service provider, social worker, the police, or a hospital. |

Analysis

The changes to the definition of homelessness are mandated by the HEARTH Act. HUD's proposed regulations provide the specific details necessary to implement those changes. For most of the changes, the HEARTH Act provided enough specificity, and HUD's proposal is simply restating the HEARTH Act's language. In other cases, the HEARTH Act provided less specific guidance, which HUD interpreted and translated into the detailed guidance necessary for implementation. Significant features of the new definition regulation include the following:

- HUD is requiring that providers maintain records for 5 years after the end of the grant term.
- The HEARTH Act states that people should be considered homeless if they were temporarily residing in a shelter or place not meant for human habitation prior to entering an institution. HUD interpreted a temporary stay in an institution to mean a stay of 90 days or less. Currently, HUD allows for stays of 30 days or less.
- The changes in the imminent homelessness category—people will be considered homeless if they are losing their housing in 14 days instead of 7 days as well as new documentation requirements—were specified in detail in the HEARTH Act, and the regulations closely follow those instructions.
- The HEARTH Act created a new category of homelessness that attempts to capture unaccompanied youth and families with children who experience persistent housing instability and have other barriers to housing. The HEARTH Act's language was more general than other language regarding the definition of homelessness. It required that the definition only apply to unaccompanied youth and families with children who are considered homeless under other federal statutes but not under the HUD portion of the McKinney-Vento Homeless Assistance Act. The HEARTH Act also required the following:
 - the individual or family has not lived independently for a long period of time, which HUD interpreted as not being on a lease or having an ownership interest in a housing unit for the past 91 days;
 - the individual or family has moved frequently, which HUD interpreted as having moved at least 3 times in the past 90 days; and
 - the individual or family is expected to continue to have unstable housing for one of a number of reasons—chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment—HUD interpreted multiple barriers to employment to mean at least two of the following:

lack of a high school degree or GED, illiteracy, low English proficiency, history of incarceration, or history of unstable employment.

Overall, these changes will likely have modest impacts on homeless assistance programs. The number of people eligible for assistance through Continuum of Care programs will grow. Continuum of Care funded programs, particularly transitional housing programs, will have to evaluate how they target their assistance, whether they plan to serve people newly covered under the definition, and how they will prioritize whom to serve. Changes in data elements, intake forms, reporting forms, policies and rules may also be needed to implement the changes.

More people will also be eligible for assistance from ESG funded shelter programs. (Other changes to ESG will significantly expand ESG prevention assistance for people at risk of homelessness). Similar to the transitional housing programs, shelters funded through HUD's ESG program will have to decide whether they plan to serve people newly covered under the definition and how they will prioritize whom to serve.

The changes to the definition will have little impact on how point in time counts are conducted. The HEARTH Act prohibits HUD from requiring that communities conduct counts of people who are in imminent danger of losing their housing, experiencing persistent instability, or fleeing or attempting to flee domestic violence unless those people are being served by HUD-funded homeless assistance programs. HUD may only require CoCs to conduct a count of people who are homeless under the core definition—residing in a shelter (including motel paid for by government or charitable organization), transitional housing, or place not meant for human habitation.

During the summer and fall of 2010, HUD will be issuing regulations to implement the rest of the HEARTH Act. Some of those regulations may create incentives or disincentives for CoCs to serve people who are in imminent danger of losing their housing or experiencing persistent instability. For example, the HEARTH Act requires that CoCs be evaluated for their performance, and decisions about who is served may have an impact on that performance.

Although the changes to the definition will have modest effects, CoCs should use this opportunity to evaluate who their programs serve and how they serve them. Following are some questions that CoCs could consider.

- How *does* our community prioritize who to serve? How *should* we prioritize? In many CoCs, providers each have a strategy for screening potential clients, and those strategies may not be coordinated.
- Are people we serve receiving the most appropriate intervention? As eligibility for assistance expands, CoCs should evaluate whether newly eligible people are best served by the existing programs, which of those programs they are best served by, and whether new programs should be developed.

- How can we help providers and other stakeholders implement changes? No matter what decisions CoCs make regarding which populations they serve and how they serve them, intake workers, providers, referring agencies, and other stakeholders will need training, technical assistance, and help with planning to ensure that the changes are implemented in a coordinated and efficient manner.